IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION No.521 OF 2006

Machindra Mahadeo Pawar .. ..Petitioner

Versus

Krishna Mahadeo Pawar & Ors. . ..Respondents

Mr.M.A.Utagikar for petitioner

Mr.Milind Deshmukh for respondent nos.1 and 2

CORAM : S. C. DHARMADHIKARI, J

DATE : 23RD FEBRUARY, 2006

P.C.:

1. Heard Mr.Utagikar appearing for the petitioner and Mr.Deshmukh appearing for the respondent nos.1 and 2.

2. With the assistance of the learned advocates I have perused the order of the trial court as well as

that of lower appellate court.

3. Prima facie, the dispute being between the real brothers and the assertion of the original plaintiffs that the petitioner-defendant is using the land which, at this stage, cannot be said to be exclusively belonging to him then the order of the lower appellate court allowing the appeal and issuing an injunction against the petitioner-defendant from undertaking further construction or complete the incomplete construction of the house property requires no interference in my jurisdiction under Article 227 of the Constitution of India.

4. Considering the facts that the suit is between the real brothers, who are also senior citizens, hearing of the suit is expedited. All observations made by the lower appellate court as also in this order are prima facie, and shall not influence by the trial court while deciding the suit, which will be decided on its own merits and in accordance with law. With this direction the petition stands disposed off.